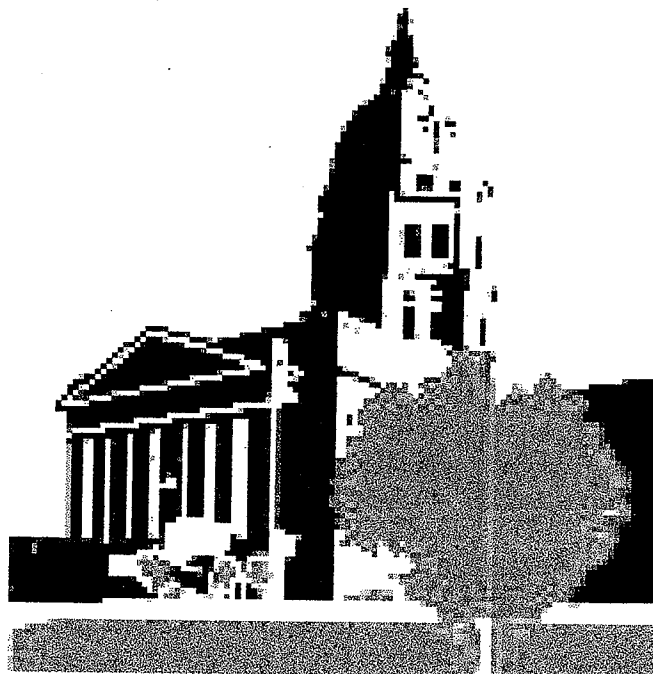


WHITLEY COUNTY

PROPOSAL FOR 2007 TRENDING ADJUSTMENT PROGRAM



**WILLIAM P. SCHULTZ
5224 GEHRING LANE
FORT WAYNE, INDIANA 46818
260-760-9859**

CONTRACT FOR TECHNICAL ASSISTANCE
(ANNUAL ADJUSTMENTS FOR 20 07)

This contract is entered into this 20 day of February, 2007, by and between the County Assessor of Whitley County, Indiana and the undersigned Township Assessors and Trustee Assessors in Whitley County, Indiana (collectively, the "Assessors"), and William P. Schultz, with offices at 5224 Gehring Lane Fort Wayne, In. 46818 (the "Contractor").

RECITALS

- A. The Assessors have determined that the Assessors should employ the Contractor as a technical advisor pursuant to the provisions of Indiana Code § 6-1.1-4-17 for the purpose of completing annual adjustments as required by Indiana Code § 6-1.1-4-4.5 and 50 IAC 21.
- B. The Assessors have advertised for bids according to the provisions of Indiana Code § 6-1.1-4-18.5 and fulfilled all other statutory conditions precedent to the employment of a technical advisor.
- C. The Assessors wish to contract with the Contractor and the Contractor is willing to be contracted by the Assessors.
- D. The Contractor is a Professional Appraiser as the term is defined in Indiana Code § 6-1.1-4-17(c) and Indiana Code § 6-1.1-31.7.
- E. This Contract is subject to the provisions of Indiana Code § 6-1.1-4-4.5 and 50 IAC 15, and the Contractor will comply with the provisions of Indiana Code § 6-1.1-4-4.5 and 50 IAC 15 in connection with this Contract.
- F. The Department of Local Government Finance shall be known in this Contract as "the Department".

AGREEMENT

In consideration of the premises, mutual covenants and obligations of the parties, the Assessors and Contractor agree as follows:

ARTICLE 1. INCORPORATION OF RECITALS.

The foregoing recitals are adopted by the parties as being true and accurate statements, and are hereby incorporated as binding representations of this Agreement.

ARTICLE 2. DUTIES OF THE CONTRACTOR.

- (a) The Contractor shall provide technical assistance to the Assessors in connection with the determination of annual adjustments to real property in Whitley County (as required by Indiana Code 6-1.1-4-4.5) for the Assessment Year of 20 07, as requested and assigned by the authorized designate of the Assessors, under the terms and provisions of this Contract, in accordance with and furtherance of all rules governing annual adjustments and the assessment of real property promulgated by the Department, and all other applicable laws, statutes, ordinances, or administrative rules.
- (b) The class(es) of property to be reviewed by the Contractor under this Contract is/are limited to Residential, Agricultural, Commercial, Industrial, Exempt and Fixed Non-Operating Railroad.
- (c) For the class(es) of property listed in Article 2(b) of this Agreement the Contractor will complete all responsibilities of the Assessors created under Indiana Code § 6-1.1-4-4.5 and 50 IAC 21 regarding annual adjustments and the completion of required ratio studies, unless specifically retained by the Assessors and listed in Article 3 of this Agreement, including but not limited to:

 - (1) Perform ratio studies using the methods or combination of methods acceptable under the Standard on Ratio Studies published by the International Association of Assessing Officials ("IAAO") or other acceptable appraisal methods approved by the Department.
 - (2) Use a valuation date of January 1 of the year preceding the year of the assessment date.
 - (3) Use verified sales of properties occurring within two (2) calendar years preceding the relevant valuation date in performance of the ratio studies.

 - a. Sales occurring before or after the assessment date shall be trended if appropriate, in accordance with the IAAO standard and the time adjusted sales price shall become the basis for all ensuing analysis.
 - b. If available sales data is insufficient to satisfy the IAAO standard, the Contractor may use sales from earlier or more recent time periods, or both, by adjusting and time trending the sales data as described in the IAAO standard.
 - c. If the Contractor determines that there are insufficient commercial and/or industrial improved property sales in order to determine an annual adjustment factor the Contractor shall review one (1) or more of the following to derive an annual adjustment factor:

 - i. Marshall and Swift cost and depreciation tables from the first quarter of the calendar year preceding the assessment date;
 - ii. Income data, rental data, market value appraisals, and other relevant evidence derived from appeals of the most recent assessment date and adjusted, as applicable, to the January 1 of the year preceding the assessment date;

- iii. Commercial real estate reports;
 - iv. Governmental studies;
 - v. Census data;
 - vi. Multiple listing services (MLS) data;
 - vii. The independent study performed by the Indiana Fiscal Policy Institute;
 - viii. Other information or data to determine an annual adjustment factor.
- (4) Review all neighborhood delineations for the specified class(es) of property established for the most recent assessment date to determine if any adjustments or alterations are desirable.
 - (5) Review all land values for the specified class(es) of property established for the most recent assessment date to determine if any modifications are needed in order to promote uniform and equal assessments.
 - (6) Review ratio studies for each listed property class and examine the coefficient of dispersion and price related differential to determine if an annual adjustment factor should be applied and determine the appropriate annual adjustment factor if required.
 - (7) After any annual adjustment factor is applied, the Contractor shall complete an additional ratio study and provide the results of the ratio study to the Assessors in the manner and format specified in 50 IAC 14-5-1 through 50 IAC 14-5-3.
 - (8) Notify the Contract Representative, designated under Article 7 of this Agreement, if any ratio study reveals a coefficient of dispersion and/or price related differential that is outside the appropriate ranges set in 50 IAC 21-11-1 and recommend appropriate actions to address any identified irregularities in accordance with the procedures set forth in 50 IAC 21.
 - (9) Conduct any required stratifications and perform ratio studies for each strata until the Contractor determines the properties that are causing a coefficient of dispersion and/or price related differential that is outside of the acceptable range and then make necessary refinements to the valuation for all similar situated properties.
 - (10) No later than fifteen (15) business days prior to October 1, the Contractor shall submit to the Assessors all parcel data in the specified formats as required by Indiana Code § 6-1.1-4-25 to be utilized by the Department in accordance with Indiana Code § 6-1.1-33.5-3.
 - (11) If the Contractor modifies parcel characteristics in any way, the Contractor agrees to generate complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department and the Legislative Services Agency. If the Contract does not modify parcel characteristics, the Assessors remain

responsible for generating complete parcel characteristics and parcel assessment data in a manner and format acceptable to the Department and the Legislative Services Agency.

- (d) All direct assessment activities must be performed by a level two Assessor-appraiser certified under Indiana Code § 6-1.1-35.5. All work performed under this Contract must be organized, supervised, or reviewed by a level two Assessor-appraiser certified under Indiana Code § 6-1.1-35.5. Additionally, a level two Assessor-appraiser certified under Indiana Code § 6-1.1-35.5 must personally fulfill the following duties: (i) administer comprehensive public relations program; (ii) provide ongoing training sessions for all phases of the trending project to the Assessors' staff; (iii) provide comprehensive training for all appraisal personnel under the Contractor's control; (iv) provide support of values before the Property Tax Assessment Board of Appeals.
- (e) Administrative personnel employed by the Contractor may be used to fulfill the following duties: (i) apply land values including influence factors; (ii) update appraisal cards regarding transfer of ownership and divisions of property; (iii) submit monthly progress reports; (iv) schedule monthly meetings with the Assessors to provide progress reports; (v) gather all facts, information, and data necessary in the determination of Trending Factors or equivalent as required by the laws of the State of Indiana, the Indiana Constitution, including all applicable regulations and instructional bulletins as provided for by the Department; (vi) provide support of value after notification of property factors.

ARTICLE 3. RESPONSIBILITIES OF THE ASSESSORS.

The Contractor will not be responsible for the following duties contained in 50 IAC 21: *[Specify, in detail, the precise obligations that the Assessors intend to perform in connection with the annual adjustment duties set forth in 50 IAC 21.]*

- (1) If any annual adjustment is applied, send notices of assessment to each affected taxpayer pursuant to Indiana Code § 6-1.1-4-22(a),
- (2) Data entry of property information into the County's computer system,
- (3) Printing of field worksheets from the County's existing data base,
- (4) Printing of final property record cards,
- (5) Providing paper stock for property record cards and field worksheets,
- (6) Providing Form-11's and postage,
- (7) Printing and mailing of Form-11's; and
- (8) Providing tax maps and land value maps.

ARTICLE 4. CONSIDERATION

The Assessors shall pay the Contractor as follows:

A fee of Twenty Five Thousand (\$ 25,000) Dollars

in full payment for the complete performance of all duties, responsibilities and activities set out in this Contract and on the work plan mutually agreed to under Article 8 of this Agreement to be attached as Exhibit A.

ARTICLE 5. TERM OF CONTRACT.

- (a) The Assessors shall first notify the Contractor of properties and parcels the Contractor is to review within thirty (30) days of the date of the execution of this Contract.
- (b) The Contractor shall commence work under this Contract within thirty (30) days of the date of execution of this Contract.
- (c) The Contractor shall complete all work to be performed under this Contract, other than assistance required in regard to an appeal filed under Indiana Code § 6-1.1-15, before August 1, 2007.

ARTICLE 6. PROFESSIONAL APPRAISER CERTIFICATION; CONTRACT VOID UPON REVOCATION.

- (a) The Contractor must be certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 in order to enter into this Contract. The Contractor represents and warrants that he/she is certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 at the time of entering into this Contract; and will take all steps necessary to remain certified as a "professional appraiser" under Indiana Code § 6-1.1-31.7 through the term of this Contract.
- (b) In accordance with Indiana Code § 6-1.1-31.7-4, this Contract is void and the Contractor may not receive additional funds under this Contract if the Contractor's certification as a "professional appraiser" under Indiana Code § 6-1.1-31.7 is revoked.

ARTICLE 7. CONTRACT REPRESENTATIVE.

The Assessors hereby designates Angela Adams as Contract Representative to serve as the primary contact person for the Assessors under the Contract. Subject to the provisions of Article 16, below, the Contract Representative's authority and responsibilities are as follows:

- (a) Final approval of completion of the project to the satisfaction of the Assessors.
- (b) Approval of the project manager utilized in the execution of the project.
- (c) Attesting to the certification of insurance coverage as stated in the Contract.
- (d) Approval of standardized land influence factors.
- (e) Monitoring the quality of the work performance and adherence to contractual specifications through inspections at frequent intervals throughout the program.
- (f) Approval of an invoicing format prior to the submission of any claims.
- (g) Receiving and approving monthly claims submitted by the Contractor.

- (h) Providing for access to equalization study, neighborhood factors and all maps including aerial photographs.
- (i) Providing for data entry into the Assessor's computer system for all properties.
- (j) Providing for all copies of property record cards and sale disclosures as required by the Contractor for all field work.
- (k) Providing for printing, envelopes, postage, and mailing as required.

ARTICLE 8. WORK PLAN.

Within fifteen (15) days of the execution of this Contract, the Contractor shall deliver to the Contract Representative a work plan that shows a schedule for the completion of work under the Contract. The work plan is subject to approval by the Assessors. The Contractor and Contract Representative must agree to a work plan within thirty (30) days of its submission to the Contract Representative. The work plan shall ensure that all values generated by any form of annual adjustment under this Agreement will be completed before such values are required by the Department in order to set tax rates. Upon approval of a work plan, it shall become Exhibit A and become a part of this Contract by this reference.

ARTICLE 9. CONTRACT REPORTS AND MONITORING.

The Contractor shall be required to provide written progress reports to the Assessors in a form reasonably prescribed by the Assessors. The reports must include the number of parcels being reviewed by the Contractor and the status of the work being done. The Assessors may require that additional information be included in the reports. The Contractor shall submit the reports to the Contract Representative in writing (via email or other method of delivery) each month on or before the 30th day of each month. The Contract Representative shall immediately forward a copy of each report to the Assessors. The Assessors may at all times inspect the records of the Contractor to verify the progress and evaluate the quality of work performed. The Assessors may accompany the Contractor's personnel in their assigned duties to assure the Contractor's adherence with contractual specifications and approved procedures. The Contractor shall extend its full cooperation to the Contract Representative by providing access to all program related records, and by making personnel available upon request for the purpose of monitoring quality, performance and progress.

ARTICLE 10. TIME AND MANNER OF PAYMENT.

The Contractor shall be paid as follows:

At the end of each month, the Contractor shall submit a claim for payment for work done under the Contract during that month. The amount of each monthly payment is subject to approval by the Contract Representative, and is subject to full compliance with all other obligations under this Contract. Approval shall be based on the monthly progress reports submitted by the Contractor and on the Contract Representative's inspection of the Contractor's assessment records. Payment shall be made to the Contractor (with the

exception of a 10% retainage on all monthly payments in lieu of bonding until final completion) within thirty (30) days after approval by the Contract Representative.

If all work is not completed under this Contract by the completion date specified in Article 5 of this Agreement or if all required data is not submitted to the Department in the appropriate format in a timely manner, then all further payments will be suspended at that time until all work has been satisfactorily completed and approved by the Contract Representative and as otherwise required under this Contract. Payments of the suspended amount will be made to the Contractor within thirty (30) days after that approval by the Contract Representative.

ARTICLE 11. PENALTIES.

Payments due under this Contract shall be reduced by the amount of One Hundred Dollars (\$100.00) per business day that any part of the review by the Contractor remains incomplete after any due date specified under this Contract.

ARTICLE 12. RESPONSIBILITIES.

The final determination of the appropriate adjustment factors and assessed values are and shall remain the responsibility of the Assessors.

ARTICLE 13. NON-DISCRIMINATION.

Pursuant to Indiana Code § 22-9-1-10, the Contractor and its subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Contract, with respect to the individual's hire, tenure, terms, conditions, or privileges of employment, because of the individual's race, color, religion, sex, handicap, national origin or ancestry. Breach of this covenant may be regarded as a material breach of contract.

ARTICLE 14. GENERAL PROVISIONS.

- (a) This Contract sets forth the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior oral and written agreements and understanding between the Assessors and the Contractor. No representation, promise, inducement, or statement of intention has been made by either party which is not set forth in this Contract and neither party shall be bound by or liable for any alleged representation, promise, inducement or statement of intention not so set forth.
- (b) No waiver, alteration, modification, or cancellation of any of the provisions of this Contract shall be binding unless made in writing and signed by all those signing this Contract, or his or her successors in office. The failure of either party at any time or times to require performance of any provisions of this agreement shall not be considered a waiver and will in no manner affect the right at a later time to enforce that provision.

- (c) In the event that one or more of the provisions contained in this Contract shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions contained in this Contract. If any provisions contained in this Contract shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with the applicable law as it then shall appear.
- (d) This Contract shall be subject to and interpreted in accordance with the law of the State of Indiana and suit, if any, shall be brought in Indiana courts.
- (e) This Contract shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives, provided, however, that this Contract is not binding upon a successor to the elected office of an undersigned Assessor without the successor's prior written consent, nor can the rights, duties, and privileges of the Contractor under this contract be transferred, sublicensed or assigned by it, either in whole or in part, without the prior written consent of the Assessors.

ARTICLE 15. DELAYS.

Whenever the Contractor or the Assessors have knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this Contract, they shall within fifteen (15) days provide written notice of the delay to the other party by certified mail, return receipt requested, including all relevant information with respect to the actual or potential cause of the delay.

In the event of a delay by the Department, legislative action or court ruling, the Assessors reserve the right to re-negotiate all terms of the Contract including costs.

ARTICLE 16. TERMINATION.

The Assessors may terminate this Contract if, by a two-thirds vote, they determine that the Contractor has failed to make satisfactory progress toward performance. In such case, the Assessors will transmit a written Notice of the Default and termination to the Contractor fifteen (15) days prior to the proposed termination date, and the Contractor shall be given fifteen (15) days in which to remedy the condition which has caused the Termination Notice, or suffer termination.

The Contractor shall continue Contract performance to the extent not terminated under the provisions of the above paragraph and shall be compensated for its performance pursuant to an agreement of the parties.

In the event the Assessors terminate this Contract, in whole or in part as provided in this section, the Assessors may procure, upon such terms and in such manner as the Assessors may deem appropriate, services similar to those so terminated, and the Contractor shall be liable to the Assessors for any excess costs for such similar services, provided,

however, the amount retained by the Assessors shall be deducted in determining the excess costs.

ARTICLE 17. APPEALS.

If an assessed value as a result of an annual adjustment recommended by the Contractor is appealed to the Township Assessor, Property Tax Board of Appeals, the State Department of Appeals Division or other reviewing body, the Contractor or its employee or representative shall, if at least ten (10) days notice is given to the Contractor, appear at any hearing scheduled on the appeal of the parcel to explain the Contractor's calculations. A fee of Four Hundred Dollars (\$ 400) per day shall be paid to the Contractor for services rendered in connection with the assistance on the appealed parcel (with one-half of one day (\$ 200) established as a minimum fee for such services).

ARTICLE 18. INDEPENDENT CONTRACTOR

In the performance of this Contract, Contractor will be acting in an individual capacity and not as an agent, employee, partner, joint venture or associate of the Assessors. The employees or agents of the Contractor shall not be deemed or construed to be the employees or agents of the Assessors for any purpose whatsoever.

ARTICLE 19. LIABILITY.

The Contractor agrees to indemnify, defend, and hold harmless the Assessors and their respective townships and county, and all agents, officers and employees of those townships and that county, from all claims and suits including, court costs, attorney's fees, and other expenses, caused by any act or omission of the Contractor and/or its subcontractors, in connection with this Contract.

ARTICLE 20. SUBCONTRACTING.

The Contractor must obtain the prior written approval of the Contract Representative before subcontracting all or any portion of this Contract. This limitation shall not apply to the purchase of standard commercial supplies or raw materials.

If subcontractors are used, the Contractor is responsible for contract performance, compliance with terms and conditions of this Contract, and the requirements of federal and state equal opportunity and affirmative action statutes, rules and regulations.

ARTICLE 21. FORCE MAJEURE.

Neither party shall be liable for delays or performance failures resulting from and caused by acts beyond the party's control. Such acts shall include acts of God, acts of war, epidemics, communication line failures, power failures, earthquakes, and other similar disasters. In every case, the delays must be beyond the control and without the fault or negligence of the non-performing party.

ARTICLE 22. MAINTAINING A DRUG-FREE WORKPLACE.

Contractor hereby covenants and agrees to make a good faith effort to provide and maintain during the term of this Contract a drug-free workplace, and that it will give written notice to the Assessors within ten (10) days after receiving actual notice that an employee of the Contractor has been convicted of a criminal drug violation occurring in Contractor's workplace.

In addition to the provisions of the above, if the total contract amount set forth in this Contract is in excess of \$25,000.00, Contractor further agrees that this Agreement is expressly subject to the terms, conditions and representations contained in the Drug-Free Workplace certification executed by Contractor in conjunction with this Contract and which is appended as an Attachment to this Agreement.

It is further expressly agreed that the failure of Contractor to in good faith comply with the terms of the above, or falsifying or otherwise violating the terms of the certification referenced above shall constitute a material breach of this Contract, and shall entitle the Assessors to impose sanctions against Contractor including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of Contractor from doing further business with the County for up to three (3) years.

ARTICLE 23. CONFIDENTIAL NATURE OF APPRAISAL DATA

The Contractor shall assure that no individual on the Contractor's staff shall disclose any appraisal information to any individual, firm or corporation other than appropriate public officials and their authorized agents. Any data, which is to be released, shall be provided to the Assessors who shall provide for its release. However, the Department and the Legislative Services Agency shall have unrestricted access to the Contractor's work product under this Agreement.

ARTICLE 24. IDENTIFICATION.

All field personnel involved with the completion of this Agreement shall carry identification cards, which will include a photograph of the individual and the County Assessor's signature. All automobiles used by field personnel shall be marked appropriately and registered with County Sheriff's office, with local police departments located within the county, and with the County Assessor's office.

ARTICLE 25. WORK PRODUCT DELIVERY.

The Contractor shall be responsible for the delivery of the following products to the Assessors at the completion or termination of this Agreement:

- (1) Documentation of procedures used throughout the reassessment program;
- (2) Any and all training materials and manuals used to train the Contractor's staff;

- (3) All field worksheets for each parcel of real property;
- (4) All maps and/or other information provided for the Contractor by the Assessors;
- (5) All information gathered, created, or reviewed for the verification of sales disclosure forms, neighborhood delineations, land values, and/or any time adjustments to sales prices; and
- (6) All ratio studies and supporting documentation.

ARTICLE 26. CONTRACTOR EMPLOYEES – PROJECT MANAGER.

The Contractor shall assign by name an Indiana Level II Assessor/Appraiser as project manager. The assigned Indiana Level II Assessor/Appraiser shall be:

William P. Schultz. The current contact information for the assigned person is: 5224 Gehring Lane Fort Wayne, In. 46818
260-760-9859

ARTICLE 27. OFFICE SPACE.

The Assessor shall not be responsible for providing the Contractor with office space in connection with the execution of this contract. All furnishings, equipment, supplies, and telephone shall be supplied by the Contractor.

ARTICLE 28. INSURANCE AND WORKER'S COMPENSATION.

The Contractor shall carry automobile, public liability and worker's compensation insurance in the amounts as follows:

<u>Type</u>	<u>Coverage</u>	<u>Amount</u>
Automobile	Bodily Injury	\$100,000 / \$300,000
Automobile	Property Damage	\$100,000
Public Liability		\$100,000 / \$300,000
Worker's Compensation		Statutory Requirements

A certificate from an insurance carrier authorized to do business within the State of Indiana shall be furnished to the Contract Representative attesting to the coverage stated above. The Contractor shall indemnify and hold the County Assessor, the County, its officers and all employees harmless from all claims, demands, payments, suits, actions, recovery and judgments of every kind and description brought or recovered against it by reason of any act or omission of the Contractor, its agents, or employees in the execution of this Agreement.

IN WITNESS WHEREOF, the parties have executed this contract by their duly authorized officers this 20th day of February, 20 07.

APPROVED:

Whitley County Assessor:

By: Angela J. Adams
County Assessor

Cleveland Township:

By: Robert King
Township Trustee / Assessor

Columbia Township:

By: Marilyn Siney
Township Assessors

Etna-Troy Township:

By: Dyllis Wheeler
Township Trustee / Assessor

Jefferson Township:

By: David K. Schadenberg
Township Trustee / Assessor

Richland Township:

By: St. C. Ho
Township Trustee / Assessor

Smith Township:

By: Paul J. Al
Township Trustee / Assessor

Thornecreek Township:

By: Eugene J. Heepman
Township Trustee / Assessor

Union Township:

By: Paul C. Leiminger

Township Trustee / Assessor

Washington Township:

By: Kevin Bally
Township Trustee / Assessor

Professional Appraiser:

Name of Company:

By its duly authorized officer / agent:

Sign: William Schultz
Print: William Schultz
Office/Title: owner

Whitley County Commissioners:

By: James Pettigrew
Commissioner

By: Michael D. Schraden
Commissioner

By: Tom Potlatch
Commissioner

Whitley County Council:

By: William N. Dwyer
President

ATTESTED:

Whitley County Auditor:

By: Linda J. King
County Auditor